

COUNTY OF YORK

MEMORANDUM

DATE: July 1, 2005 (BOS Mtg. 7/19/05)
TO: York County Board of Supervisors
FROM: James O. McReynolds, County Administrator
SUBJECT: Application No. UP-670-05, Mary L. Patterson

ISSUE

Application No. UP-670-05 requests a Special Use Permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to authorize massage therapy as a home occupation within a single-family detached dwelling on a 0.31-acre parcel of land located at 203 Halles Run (Route 1465) and further identified as Assessor's Parcel No. 38-121A-6.

DESCRIPTION

- Property Owner: Douglas L. and Mary L. Patterson
- Location: 203 Halles Run (Route 1465)
- Area: 0.31 acre
- Frontage: 80 feet along Halles Run
- Utilities: Public water and sewer
- Topography: Flat
- 2015 Land Use Map Designation: Medium-Density Residential
- Zoning Classification: R20 – Medium Density Single-Family residential
- Existing Development: Single-family detached home
- Surrounding Development:

North: Three single-family detached homes

East: One single-family detached home

South: Common area and maintenance/access easement owned by the Roberts
Trace Homeowners Association

West: One single-family detached home

- Proposed Development: Massage therapy as a home occupation

CONSIDERATIONS/CONCLUSIONS

1. The applicant lives in the Roberts Trace subdivision and wishes to operate as a massage therapist in her home. Section 24.1-283 of the Zoning Ordinance requires a Special Use Permit for any home occupations with on-premises retail sales, personal services, or customer/client contact.
2. Section 24.1-281 of the Zoning Ordinance specifies a series of performance standards that apply to home occupations in general, and Section 24.1-283(b) sets forth additional standards that apply specifically to those home occupations for which a use permit is required. The purpose of these standards is to limit the size, scale, and visibility of home occupations in order to ensure that they remain incidental and subordinate to the residential use of the property and to prevent adverse impacts on surrounding homes. Pursuant to these standards, home occupations are not permitted to occupy more than 25% of the floor area of the residence or 400 square feet, whichever is less. The applicant's home has 2,675 square feet of floor area, and she has indicated that the massage therapy use will be limited to one 152-square foot room (5.7% of the floor area of the home).
3. The Zoning Ordinance also limits the hours of operation to the period between 8:00 AM and 8:00 PM, Monday through Saturday, unless otherwise specified by the Board through a use permit condition. The applicant's proposed hours of operation will be limited to Monday 9:00 AM to 8:00 PM, Tuesday, Wednesday, and Thursday 5:00 PM to 8:00 PM, and Friday and Saturday 9:00 AM to 12:00 PM.
4. The applicant will be the sole operator of the business, performing therapeutic massage (including Swedish, deep tissue, and sports massage and reflexology) and bodywork (including salt treatments, mud wraps, ear candling, exfoliating and honey toning facials) for clients. Only one "by appointment" customer is proposed to be seen at any one time by the applicant. However, there might be situations where another client arrives prior to the departure of the client being served. For this reason, a condition has been included in the approving resolution specifying that only one customer may be served at any one time.
5. The subject property can accommodate both the residential parking requirement (two spaces) and the off-street parking demand generated by the proposed massage therapy use (2 spaces). The home has a two-car garage and a driveway measuring approximately 18 feet in width and 45 feet in length. Since the minimum parking space dimensions in York County are 9 feet by 18 feet, the parking areas can accommodate approximately four cars.

6. In the past twelve years, the Board has approved fourteen applications for home barber and beauty shops and other personal services uses. For comparison purposes, relevant data for these fourteen home occupations are listed in the table below. As the table indicates, the applicant's proposed home occupation would be similar in hours of operation and size to these approved home occupations.

Approval Date	Location	Maximum Area	Days and Hours of Operation
02/21/91	Lotz Acres Estates	125 sq. ft.	Mon.-Sat., 8 AM-8 PM
10/17/91	Hudgins Farm Drive	240 sq. ft.	Mon.-Sat., 8 AM-8 PM
04/16/92	Hornsbyville Road	240 sq. ft.	Mon.-Sat., 8 AM-8 PM
10/15/92	Running Man	150 sq. ft.	Mon.-Sat., 8 AM-8 PM
05/20/93	Edgehill	260 sq. ft.	Mon.-Fri., 9 AM-5 PM
08/16/95	Carraway Terrace	200 sq. ft.	Tues.-Thur., 9 AM-6 PM
11/21/00	Woods of Tabb	150 sq. ft.	3 days/week 9 AM-5 PM
02/19/02	Edgehill	250 sq. ft.	Tues.& Thurs., 10 AM-7 PM; Wed.& Fri., 10 AM-4 PM; & Sat. 10 AM-2 PM
02/19/02	Carver Gardens	200 sq. ft.	Mon.-Sat., 8 AM-8 PM
07/16/02	Skimino Hills	200 sq. ft.	Mon.-Sat., 9 AM-5 PM
12/03/03	Meadowlake Farms	335 sq. ft.	Tues.-Sat., 9 AM-5 PM
2/11/04	East Rochambeau Drive	132 sq. ft.	Mon.-Fri., 5:30 PM-8 PM & Sat., 10 AM-3 PM
7/13/04	Woodlake Crossing	63 sq. ft.	Tues. & Thur., 9 AM-5PM
10/26/04	Edgehill	215 sq. ft.	Three Days, 9 AM-8PM

According to staff in the County's Development and Compliance Division, there have been no complaints or compliance problems associated with any of these home occupations providing personal services.

7. Section 24.1-281(e) of the Zoning Ordinance states that home occupations "shall not generate traffic, parking, sewerage or water use in excess of that which is normal in the residential neighborhood." This property is served by public water and sewer and staff feels that the impact of additional water use is not of concern.
8. Property within the Roberts Trace subdivision is subject to covenants and has an established homeowners' association. The attached letter, dated May 19, 2005, from the Association Vice-President notes the conditional approval given to the applicant's proposal. Nevertheless, regardless of the language of the covenants, the County must evaluate the massage therapy use within the context of the Zoning Ordinance and its standards. The County cannot be a party to the enforcement of private covenants and restrictions. The approval of a Special Use Permit will not relieve the applicant of any responsibilities for compliance with such covenants or restrictions.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its regular meeting on June 8, 2005 and, subsequent to conducting a public hearing at which only the applicant spoke, voted 7:0 to recommend approval.

COUNTY ADMINISTRATOR RECOMMENDATION

The proposed home occupation is a small-scale operation and is not likely to have any adverse impacts on the surrounding area. I am confident that the proposed conditions prohibiting non-resident employees and limiting the hours of operation are sufficient to ensure that it remains a small-scale operation, consistent with the intent of the home occupation provisions of the Zoning Ordinance. Therefore, I recommend that the Board approve this application subject to the conditions contained in proposed Resolution No. R05-127.

Carter/3337:EWA

Attachments

- Excerpt from Planning Commission minutes, June 8, 2005
- Zoning Map
- House Sketch Plan (1st floor and driveway; 2nd floor)
- Chapter 14.3, *Massage Parlors*, York County Code
- Letter from Robert's Trace Homeowner's Association
- Proposed Resolution No. R05-127